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OGC Has Reviewed

Executive Registry
1-4409

SECRET

29 December 1950

MEMORANDUM FOR: ASSISTANT TO THE DEPUTY DIRECTOR FOR ADMINISTRATION

SUBJECT: Use of Private Car

1. We can find no basic statutory prohibition to the use of a private car for official travel with a Government chauffeur as driver. While legally permissible, therefore, there are several incidental legal problems which will require that careful arrangements be made.

a. It is our opinion that the Government will not accept liability for damage to the employee's car in the event of an accident whether it was on official business or private business (unless perhaps the chauffeur, while driving on official business, was so negligent that the negligence would be imputed to the Government). Therefore, if the owner wishes to protect his car, he should assure that his insurance policies cover business driving as well as private use.

b. The Government might be liable for damage to the car of another if the chauffeur were driving on official business and the Government, under the Tort Claims Act, would be liable for the negligence of its agent. While driving on private business, however, the chauffeur would then be solely liable. Again he may wish to assure that he has full insurance coverage, as the question of whether the chauffeur were acting for him or the Government might be contested and liability denied by the Government.

c. There would be no authorization to pay additional premiums for coverage required by a and b above. It is apparently possible, however, for a travel authority of the Agency to approve the use of a private car for official travel as more advantageous to the Government (Section 4, P.L. 92, 81st Cong., and Government Travel Regulations, Section 12a). If proper records were kept of the number of miles on actual official business, mileage could be repaid on submission of periodic vouchers. Such mileage would be in lieu of all other expenditures and the Government could not pay for gasoline, oil and repairs to the car.

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d. When not engaged in driving on official business or in spending his time incident thereto, the chauffeur's compensation should be borne by the owner of the car. Personnel should make necessary arrangements to see that appropriate time and attendance reports are kept to reflect accurately the amount of time on official business.

e. In consideration of this matter, there has arisen the question of whether the private car could be stored in and serviced by Government facilities. In view of the fact that mileage is the only compensation authorized for the use of private cars while actually traveling on official business and based on the broad general statutory prohibitions on the use of Government facilities and property for private purposes, it is our opinion that such storage and service would not be legally permissible.

LAWRENCE R. HOUSTON
General Counsel

cc: Personnel Director
Chief, Motor Services

cc: Central Records
Subject
Chrono
Legal Decision
Vital Document

cc: 515 Vehicles

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